Filed 11/15/16 In re A.R.B. CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re A.R.B. et al., Persons Coming Under the Juvenile Court Law.	2d Juv. No. B271739 (Super. Ct. Nos. 1436200, 1436201) (Santa Barbara County)
SANTA BARBARA COUNTY CHILD WELFARE SERVICES, Plaintiff and Respondent, v. A.B., Defendant and Appellant.	

A.B. (Mother) appeals an order of the juvenile court terminating her parental rights (Welf. & Inst. Code, § 366.26) to her daughters A.R.B. and R.C., minors coming under the juvenile court law.[1] (§ 300, subd. (b).) We conclude, among other things,

[1] All statutory references are to the Welfare and Institutions Code.

that 1) the court did not err by ruling that the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1902) did not apply, and 2) Santa Barbara County Child Welfare Services (CWS) gave proper ICWA notice to the Indian tribes. We affirm.

FACTS

On October 20, 2014, CWS filed a juvenile dependency petition (§ 300, subd. (b)) on behalf of A.R.B. and R.C. It alleged Mother had "abandoned" these two children and had admitted that "she could not care for them and could not provide for their basic needs" for "shelter, food, clothing and supervision." Mother said, "I am tired of the family drama" and "I think that they will be better in foster care." CWS alleged Mother's substance abuse and "mental illness" and father's criminal history impairs their ability to be parents and places the children at risk.

The juvenile court ordered the children detained and placed in a "[s]uitable [r]elative" placement.

At the jurisdictional/dispositional hearing, the juvenile court found the allegations of the petition to be true. It ruled the children were persons "described by Welf. & Inst. Code, [§ 300(b)]." The court ordered family reunification services for Mother and father. On December 10, 2015, the court terminated those services.

On April 21, 2016, the juvenile court terminated the parents' parental rights.

ICWA

Mother said she might have Indian ancestry from the "Blackfoot Indian" tribe and maternal grandfather, S.B. CWS contacted him. S.B. said he was "not 100% sure of any Indian Heritage in the family." CWS nevertheless obtained information from him about possible Indian relatives. The maternal great-grandmother claimed Cherokee Indian heritage. CWS prepared an ICWA matrix document summarizing its contacts with family members.

Father did not claim Indian heritage. He told CWS that Mother "has no Indian heritage" and that she "is only holding up the court hearing and making the situation more difficult."

CWS obtained, among other things, the names, birth dates, and, where applicable, the available dates of death, places of birth and Indian heritage information for the parents, maternal grandparents, maternal great-grandparents, and the name and Indian heritage of the maternal great-great-grandfather.

CWS then sent the available information in "ICWA 30" notice forms to the Bureau of Indian Affairs, the U.S. Department of the Interior, the Cherokee Nation, Eastern Band

of Cherokee Indians, United Keetoowah Band of Cherokee Indians, and the Blackfeet Tribe.

CWS received letters from all the tribes stating that they had determined that the children "are not eligible for enrollment."

On May 11, 2015, the juvenile court found ICWA "does not apply."

DISCUSSION

ICWA Notice

Mother contends reversal is required because CWS did not give adequate notice to the Indian tribes under ICWA. We disagree.

"ICWA allows an Indian tribe to intervene in dependency proceedings, to 'protect the best interests of Indian children and to promote the stability and security of Indian tribes and families . . . .'" (*In re J.M.* (2012) 206 Cal.App.4th 375, 380.) "The Indian tribe determines whether the child is an Indian child, and its determination is conclusive." (*Ibid.*)

"[W]hen the juvenile court knows or has reason to know that an Indian child is involved," it must make sure that proper notice is given to the relevant tribes. (*In re J.M.*, *supra,* 206 Cal.App.4th at p. 380.) In such a case the public agency must provide notice to the tribes that includes "'[a]ll names known of the Indian child's biological parents, grandparents, and great-

grandparents, or Indian custodians, including maiden, married and former names or aliases, as well as their current and former addresses, birthdates, places of birth and death, tribal enrollment numbers, and any other identifying information, if known.'" (*In re J.M.*, at p. 380.) "Substantial compliance with the notice requirements of ICWA is sufficient." (*In re Christopher I.* (2003) 106 Cal.App.4th 533, 566.) A notice deficiency is harmless error where there is no possibility the child could qualify as an Indian child. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1531.)

Mother concedes that CWS "went to great efforts to compile the matrix with information provided primarily by the maternal grandfather [S.B.]." But she claims it omitted information about the "maternal great-great grandfather [U.B.]" from "the ICWA-030 notice for both children."

CWS responds that it provided "all the available information about the children, parents, grandparents and great grandparent with Indian ancestry." It claims it was not required by state law or federal regulations to include information about the great-great-grandfather. We agree.

California law "does *not* require that notice include information about great-great-grandparents." (*In re J.M.*, *supra*, 206 Cal.App.4th at p. 380.) "[F]ederal regulations do not require the disclosure of information concerning ancestors more remote than great-grandparents." (*Ibid.*)

Mother contends CWS should have included information about the great-great grandparent on section (d) of the ICWA-030 form. But that section applies to "aunts, uncles, siblings, first and second cousins, stepparents, etc." CWS points out there is no request for information on the ICWA form about a great-great-grandparent. CWS also notes that "even though [it] was not required to include information about the great-great-grandfather in the ICWA notice," it "included the ICWA matrix as part of the ICWA notice." That matrix includes the name of the great-great-grandfather and lists his Indian heritage as "Blackfoot."

Mother notes that the ICWA matrix refers to relatives with potential "Blackfoot" ancestry, but CWS sent notice to the "Blackfeet" tribe. But this is not a ground for reversal or remand. Although family members referred to the tribe as "Blackfoot," the correct name is "Blackfeet," and CWS acted properly by giving notice to the Blackfeet tribe. (*In re I.B.* (2015) 239 Cal.App.4th 367, 371, fn. 5.) The Blackfoot tribe is a Canadian tribe and it is "not entitled to notice of dependency proceedings." (*In re L.S.* (2014) 230 Cal.App.4th 1183, 1198.)

Moreover, where a tribal constitution limits membership to persons with a high percentage of Indian blood, "the omission of information about a child's great-great-grandparents is rarely prejudicial when the identity of more

immediate lineal ancestors is included in the ICWA notice . . . ." (*In re J.M.*, *supra*, 206 Cal.App.4th at p. 382.)

We grant the CWS request for judicial notice of the constitution of the Blackfeet Tribe. (*In re J.M.*, *supra*, 206 Cal.App.4th at p. 382.) For these children to be Blackfeet tribal members, this constitution requires that they have "one-fourth (1/4) degree of Blackfeet Indian blood." As CWS notes, even had the great-great-grandfather "had one hundred percent Blackfeet blood, the children's blood-quotient would be one-sixteenth Blackfeet," making it impossible for them to be eligible for tribal membership. There was no error.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Arthur A. Garcia, Judge

Superior Court County of Santa Barbara

Maureen L. Keaney, under appointment by the Court of Appeal, for Defendant and Appellant.

Michael C. Ghizzoni, County Counsel, Toni Lorien, Senior Deputy, for Plaintiff and Respondent.